

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 948

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO LIQUOR; ENACTING A NEW SECTION OF THE LIQUOR
CONTROL ACT TO ALLOW CUSTOMERS TO REMOVE A PARTIALLY CONSUMED
BOTTLE OF WINE FROM A RESTAURANT THAT IS A LICENSED PREMISES;
PROVIDING AN EXEMPTION FROM THE OPEN CONTAINER PROHIBITION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Liquor Control Act,
Section 60-6A-33 NMSA 1978, is enacted to read:

"60-6A-33. [NEW MATERIAL] PARTIALLY CONSUMED BOTTLE OF
WINE--LICENSED PREMISES.--Notwithstanding any other provision
of law, a dispenser, canopy licensee or restaurant licensee may
permit a customer of the licensee to reseal and remove from the
licensed premises one opened bottle of partially consumed wine
if, pursuant to rules promulgated by the director, it has been
recorked and resealed in a manner that cannot be opened and

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1 resealed in the same container and provided the customer has
2 purchased a full course meal and consumed a portion of the
3 bottle of wine with the meal on the licensed premises. The
4 customer receipt issued by a dispenser, canopy or restaurant
5 licensee shall be attached to the bottle of partially consumed
6 wine."

7 Section 2. Section 66-8-138 NMSA 1978 (being Laws 1989,
8 Chapter 316, Section 2, as amended by Laws 2001, Chapter 28,
9 Section 1 and also by Laws 2001, Chapter 120, Section 1) is
10 amended to read:

11 "66-8-138. CONSUMPTION OR POSSESSION OF ALCOHOLIC
12 BEVERAGES IN OPEN CONTAINERS IN A MOTOR VEHICLE PROHIBITED--
13 EXCEPTIONS.--

14 A. No person shall knowingly drink any alcoholic
15 beverage while in a motor vehicle upon any public highway
16 within this state.

17 B. No person shall knowingly have in his possession
18 on his person, while in a motor vehicle upon any public highway
19 within this state, any bottle, can or other receptacle
20 containing any alcoholic beverage that has been opened or had
21 its seal broken or the contents of which have been partially
22 removed.

23 C. It is unlawful for the registered owner of any
24 motor vehicle to knowingly keep or allow to be kept in a motor
25 vehicle, when the vehicle is upon any public highway within

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1 this state, any bottle, can or other receptacle containing any
 2 alcoholic beverage that has been opened or had its seal broken
 3 or the contents of which have been partially removed, unless
 4 the container is kept in:

5 (1) the trunk of the vehicle or in some other
 6 area of the vehicle not normally occupied by the driver or
 7 passengers if the vehicle is not equipped with a trunk;

8 (2) the living quarters of a motor home or
 9 recreational vehicle;

10 (3) a truck camper; or

11 (4) the bed of a pick-up truck when the bed is
 12 not occupied by passengers.

13 A utility or glove compartment shall be deemed to be
 14 within the area occupied by the driver and passengers. This
 15 section does not apply to any passenger in a bus, taxicab or
 16 limousine for hire licensed to transport passengers pursuant to
 17 the Motor Carrier Act or proper legal authority.

18 D. The provisions of this section do not apply to:

19 (1) any person who, upon the recommendation of
 20 a doctor, carries alcoholic beverages in that person's motor
 21 vehicle for medicinal purposes; [~~or~~]

22 (2) any clergyman or his agent who carries
 23 alcoholic beverages for religious purposes in the clergyman's
 24 or agent's motor vehicle; or

25 (3) a customer carrying a resealed bottle of

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1 wine legally removed from a licensed premises pursuant to
2 Section 60-6A-33 NMSA 1978."

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